



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

September 29, 2005

1. Bill Number and Sponsor:

House Bill 5148 (H-2)
Representative Phillip Pavlov et al.

2. Purpose:

The bill adds Section 11511b to Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, to authorize the Department of Environmental Quality (DEQ) to issue a construction permit for a Research, Development, and Demonstration Project (RDDP) at a Type II solid waste landfill. The bill specifies additional technical information that an applicant must provide for an RDDP and additional design parameters and operating and evaluation requirements for an RDDP. The bill limits the term of an RDDP construction permit to three years, with an opportunity to extend the permit for additional terms not to exceed a total of 12 years. Additionally, under the bill, the DEQ may order immediate termination or corrective action for an RDDP that is not achieving its stated goals, and the DEQ may authorize the conversion of an RDDP to a full-scale operation if the goals of the project have been met and if the authorization is not less stringent than federal regulations.

3. How This Legislation Impacts Current Programs in the Department:

The DEQ could authorize projects to demonstrate the effectiveness of new and innovative disposal methods at Type II solid waste landfills.

4. Introduced at Agency Request:

No.

5. Agency Support:

Yes.

6. Justification for the Department's Position:

This bill will allow the DEQ to authorize projects that may lead to ways to reduce the long-term risk of solid waste landfills, increase landfill disposal capacity, and enhance energy recovery from landfills.

Bioreactors and similar disposal methods that stem from RDDPs may also be a viable alternative that would eliminate the nuisance and potential environmental damage from land application of septage waste in certain parts of the state.

The bill contains the authorities necessary for the DEQ to ensure that RDDPs do not threaten human health and the environment.

Current state and federal solid waste regulations promote a "dry tomb" concept for solid waste landfills wherein waste degradation is gradual, resulting in long-term settlement and gas emissions concerns. Different approaches, such as bioreactors that utilize bulk liquids (e.g., septage waste) to accelerate the degradation (and ultimately stabilization) process of the solid waste, need to be evaluated to support changes to state and federal regulations that would allow them at full-scale.

Septage waste disposal is a growing concern in many parts of the state. Currently, septage waste must either be land applied at agronomic rates or disposed of at a wastewater treatment plant. The lack of available wastewater treatment facilities in some areas, coupled with the decreasing area of land that can be used for application of the septage waste, is creating a demand for septage waste disposal alternatives.

7. Sate Revenue/Budgetary Implications:

None.

8. Implications to Local Units of Government:

None.

9. Administrative Rules Implications:

None.

10. Other Pertinent Information:

The bill is tie-barred to House Bill 5149 and Senate Bill 747.

For Michigan to maintain federal approval of its Solid Waste Program, the legislation must be consistent with federal regulations for solid waste landfills contained in Title 40 of the Code of Federal Regulations, Part 258, Solid Waste Disposal Facility Criteria. The DEQ had an opportunity to contribute to the drafting of House Bills 5148 and 5149 and Senate Bill 747 to ensure that the RDDP legislation was at least as stringent as the federal regulations.

The recently-promulgated federal regulations that authorize the states to amend their programs for RDDPs was challenged (*Grass Roots Recycling Network v. United States Environmental Protection Agency*, No. 04-1196, D.C. Cir., June 21, 2004). Oral arguments in the case were made on September 14, 2005. A decision is pending, and the impact of that decision on state programs is uncertain.

At this time the DEQ is aware of one potential RDDP: a proposed bioreactor evaluation project at Smith's Creek Landfill in St. Clair County. Septage waste from the region would be added to enhance the biostabilization of the solid waste. The DEQ and officials from St. Clair County have been meeting over the past several months to review engineering plans for the project.

Because an RDDP increases the potential for significant odor problems, proposed Subsection 11511b(9) should be revised as follows:

AT ANY TIME THE DIRECTOR DETERMINES THAT THE OVERALL GOALS OF AN RDDP, INCLUDING, BUT NOT LIMITED TO, PROTECTION OF HUMAN HEALTH OR THE ENVIRONMENT, ARE NOT BEING ACHIEVED, **OR A NUISANCE CONDITION HAS BEEN CREATED THAT IS NOT BEING CONTROLLED**, THE DIRECTOR MAY ORDER IMMEDIATE TERMINATION OF ALL OR PART OF THE OPERATIONS OF THE RDDP OR MAY ORDER OTHER CORRECTIVE MEASURES.

This revision emphasizes both the need for the RDDP to show that such projects can proceed without causing a nuisance and the DEQ's authority to require that the nuisance conditions be controlled.



Steven E. Chester, Director
Department of Environmental Quality

